



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,640	08/31/2000	Fred Fishburn	303.703US1	4161

21186 7590 06/27/2002

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER

WILLIAMS, ALEXANDER O

ART UNIT	PAPER NUMBER
----------	--------------

2826

DATE MAILED: 06/27/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. 09/653,640	Applicant(s) FISHBURN	
Examiner Alexander O Williams	Art Unit 2826	

ication appears on the cover sheet with the correspondence address --

OR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
CATION.

of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
unication.
0) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
ututory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
ter the mailing date of this communication, even if timely filed, may reduce any

ed on 22 April 2002.

2b) ☒ This action is non-final.

for allowance except for formal matters, prosecution as to the merits is
ce under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

nding in the application.

e withdrawn from consideration.

cted.

ion and/or election requirement.

Examiner.

a) ☐ accepted or b) ☐ objected to by the Examiner.

ection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

quired in reply to this Office action.

by the Examiner.

for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

documents have been received.

documents have been received in Application No. _____.

f the priority documents have been received in this National Stage
tional Bureau (PCT Rule 17.2(a)).

for a list of the certified copies not received.

r domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

uage provisional application has been received.

r domestic priority under 35 U.S.C. §§ 120 and/or 121.

O-948)
ber No(s) _____.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

Art Unit: 2826

Serial Number: 09/653640 Attorney's Docket #: 303.703US1

Filing Date: 8/31/2000;

Applicant: Fishburn.

Examiner: Alexander Williams

Applicant's Amendment/Election of Group I (claims 19 to 36) in Paper # 8, filed 4/22/2005, has been acknowledged. New claims 94-102 will also be examined.**Error! Bookmark not defined.**

Claims 1-18 and 37-93 have been canceled.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19 to 25, 27 to 36, 94 to 98 and 100 to 102 are rejected under 35 U.S.C. § 102(e) as being anticipated by Agarwl (U.S. Patent Application Publication # 2002/0056864 A1).

For example, in claims 19 and similar claims 22, 25, 28, 31, 34, 94, 97, and 100, Agarwl (**figures 1A to 3L**) specifically figure 3L show an integrated circuit comprising: a first device **270,260,245**; a second device (**FET**); a contact **240** coupling the first device to the second device; and an barrier structure **245** encircling the contact.

In claim 98, Note that the specification contains no disclosure of either the critical nature of the claimed dimensions or any unexpected results arising therefrom. Where patentability is said to be based upon particular chosen dimensions or upon another variable recited in a claim, the Applicant must show that the chosen dimensions are critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

Claims 19 to 36 and 94 to 102 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Agarwl (U.S. Patent Application Publication # 2002/0056864 A1) in view of Moise et al. (U.S. Patent # 6,211,035 B1).

Agarwl is cited for showing the features of the claimed invention, but fail to explicitly a bipolar second device. Specifically, Moise et al. (**figures 3a to 4h 6a-6c, 8, 10a-10d, and 13a-13i**) specifically figure **4g** show an integrated circuit comprising: a first device **416,414,412**; a second device (**CMOS or BiCMOS**); a contact **404,406,408** coupling the first device to the second device for the purpose of providing fabrication for paraelectric and ferroelectric capacitors and includes step transistors.

Therefore, it would have been obvious to one of ordinary skill in the art to use Moise et al.'s bipolar device to modify Agarwl's second device for the purpose of providing fabrication for paraelectric and ferroelectric capacitors and includes step transistors.

Art Unit: 2826

Initially, it is noted that the 35 U.S.C. § 103 rejection based on that the one or more layers is three deals with an issue (i.e., the integration of multiple pieces into one piece or conversely, using multiple pieces in replacing a single piece) that has been previously decided by the courts.

In Howard v. Detroit Stove Works 150 U.S. 164 (1893), the Court held, "it involves no invention to cast in one piece an article which has formerly been cast in two pieces and put together...."

In In re Larson 144 USPQ 347 (CCPA 1965), the term "integral" did not define over a multi-piece structure secured as a single unit. More importantly, the court went further and stated, "we are inclined to agree with the solicitor that the use of a one-piece construction instead of the [multi-piece] structure disclosed in Tuttle et al. would be merely a matter of obvious engineering choice" (bracketed material added). The court cited In re Fridolph for support.

In re Fridolph 135 USPQ 319 (CCPA 1962) deals with submitted affidavits relating to this issue. The underlying issue in In re Fridolph was related to the end result of making a multi-piece structure into a one-piece structure. Generally, favorable patentable weight was accorded if the one-piece structure yielded results not expected from the modification of the two-piece structure into a single piece structure.

Claim 26 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Agarwal (U.S. Patent Application Publication # 2002/0056864 A1).

Therefore, it would have been obvious to one of ordinary skill in the art to use the one or more layers is three and the as "merely a matter of obvious engineering choice" as set forth in the above case law.

The listed references are cited as of interest to this application, but not applied at this time.

. Art Unit: 2826


Field of Search	Date
U.S. Class and subclass: 257/754,700,701,741,747,748,750,751,753,755,757,758, 764,767,769,770,773,774,528.,532,296,300,68-71	6/24/02
Other Documentation: foreign patents and literature in 257/754,700,701,741,747,748,750,751,753,755,757,758, 764,767,769,770,773,774,528.,532,296,300,68-71	6/24/02
Electronic data base(s): U.S. Patents EAST	6/24/02

Papers related to this application may be submitted to Technology Center 2800 by facsimile transmission. Papers should be faxed to Technology Center 2800 via the Technology Center 2800 Fax center located in Crystal Plaza 4-5B15. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Technology Center 2800 Fax Center number is (703) 308-7722 or 24. Only Papers related to Technology Center 2800 APPLICATIONS SHOULD BE FAXED to the GROUP 2800 FAX CENTER.

Any inquiry concerning this communication or any earlier communication from the examiner should be directed to ***Examiner Alexander Williams*** whose telephone number is ***(703) 308-4863***.

Any inquiry of a general nature or relating to the status of this application should be directed to the ***Technology Center 2800 receptionist*** whose telephone number is ***(703) 308-0956***.

6/25/02



Primary Examiner
Alexander O. Williams